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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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IN RE
FLETCHER INTERNATIONAL, LTD.,

14 CV 2836(WHP)

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April 28, 2014

3:05 p.m.

Before:

HON. WILLIAM H. PAULEY III,

District Judge

APPEARANCES

STEWART TURNER, Pro Se

LUSKIN STERN & EISLER, LLP
Attorneys for Appellee Richard Davis
BY: MICHAEL LUSKIN

(In robing room)

THE COURT: This is a conference that I scheduled in view of an appeal of a bankruptcy order that's been filed and assigned to me, more particularly, following my receipt of a letter from Mr. Luskin dated April 22.

Mr. Turner, you're representing yourself in this matter?

MR. TURNER: Yes, I am.

THE COURT: All right. I'm Judge Pauley.

And, Mr. Luskin, you're here on behalf of the trustee?

MR. LUSKIN: I am, your Honor.

THE COURT: All right. How do you propose that we proceed? Mr. Luskin, do you --

MR. LUSKIN: I'm Luskin.

THE COURT: I'm sorry. Mr. Turner, do you want to file a separate brief in connection with this appeal, or do you want me to consider whatever briefs were filed in the bankruptcy court in connection with this matter?

MR. TURNER: I would like to submit a separate brief, your Honor.

THE COURT: When can you submit such a brief?

MR. TURNER: Ideally 30 days. I have a couple other court cases related to the FILB matter.

THE COURT: You waited to file your notice of appeal in this case, right?

MR. TURNER: I did. I was learning about the process. I have to -- if I may, your Honor.

THE COURT: Go ahead.

MR. TURNER: I have to file a response to another action brought by Mr. Luskin against me, and other people as well that he referenced in that April 22nd letter.

THE COURT: Mr. Luskin, why don't you tell me what's going on here.

MR. LUSKIN: I'll tell you what's going on in brief.

This is a failed hedge of private equity fund, Fletcher International, Limited. We refer to it as FILB; the B is for Bermuda. It's a Bermudian fund. There are two affiliated feeder funds that are Cayman Islands funds that are also in bankruptcy proceedings. They're in liquidation in the Cayman Islands, and they're under the administration of what I refer to as joint official liquidators, "JOLs." You'll see that in the papers.

The case was filed in late June of 2012, June 29, 2012. Richard Davis was appointed as Chapter 11 trustee in late September, early October 2012, after a litigation-filled summer. Apparently, at the end of the summer, the judge granted the US trustees' motion to appoint a trustee.

The focus of what's been going on is that following his appointment, Mr. Davis retained my firm. His counsel retained Jay Golden's firm, Golden Associates, to act as

financial advisor; conducted an intensive investigation of the reasons for the failure of the fund; did all the things a bankruptcy trustee does; issued a report in November of last year, of 2013, about a year after he'd been appointed.

The report -- it was a combined report and disclosure statement to bring on confirmation of a plan of liquidation. The funds are long out of business because of the bankruptcy and winding-up proceedings. The report concludes that the investors were victims of a massive fraud. Obviously this is contested by Mr. Turner and other insiders.

Following the issuance of the trustees' report, there was a hearing on the adequacy of the disclosure statement in bankruptcy, like a proxy statement for a public securities registration. That was approved, and solicitation package went out to investors. Votes were solicited. The plan was approved.

Now, I've shortcut some of the proceedings. Mr. Turner, others, were active litigants in these proceedings. There were objections filed. Changes were made to the plan, to the disclosure statement and so on. But none of that's germane, or the substance of that certainly isn't germane here. I think the fact that Mr. Turner has been an active participant filing papers throughout is relevant.

Following the solicitation, the votes were taken. The plan was approved following a hearing before the bankruptcy

court in late March, the end of March. Again, to answer your Honor's question about what's going on, the plan is a liquidation plan, and it basically creates two buckets of assets. One bucket are the assets that were owned solely by the debtor, by FILB, which consisted mostly of securities, including the securities that are the subject of this appeal, the UCBI warrants, some other assets, some other investments. Those are being liquidated and divided up in accordance with -- let's call it one waterfall of distributions. That's the liquidation bucket.

There's a second bucket that we refer to as the pooled claims. What we've done is that the FILB trustee, together with the JOLs in the Caymans and one of the investors, the Massachusetts Bay Transit Authority -- it's a public pension fund -- have collectively pooled their claims and causes of actions against insiders, including Mr. Turner, and also third-party service providers, accounting firms, law firms, so on. And the recoveries on the pooled claims will be divided according to a different waterfall, different percentages.

The FILB estate, the bankruptcy estate, is a participant in the pooled claim bucket, so that if a dollar is recovered on pooled claims, FILB gets 26, 27 cents, and then that goes into the liquidation claim, and that gets distributed as to liquidation claims are distributed. So that's a process that has all been undertaken and completed in the bankruptcy

court. The plan is confirmed. We're post confirmation. We're out of bankruptcy. We're operating under the plan. And that's moving ahead, we're collecting -- we're realizing on assets, and we're on the FILB assets. And we're also prosecuting the pooled claims.

Now, that's the big picture background of where we are. Why we're here today is because during the course of the Chapter 11 proceedings, the trustee, my client, liquidated some of the assets. We didn't wait for the confirmation of the plan. We liquidated certain assets as the case went along, and we did that under either Section 363 of the bankruptcy code, which provides for the sale of assets out of the ordinary course, or in many cases, these securities were subject to litigation claims. We litigated or negotiated settlements and arrived at settlements under bankruptcy Rule 9019. The UCBI warrants, which are the subject of this appeal, were the subject of a 9019 settlement.

And to jump to the end first, there was a hearing on that settlement in March, a couple of weeks before the confirmation; I think it was March 19. Mr. Turner filed an objection. I think there was one other objection. The judge took testimony. As is his practice, direct is on written testimony. He took direct written testimony, admitted documents in evidence, made findings of fact, conclusions of law that are reflected in the transcript that's attached to the

designation of record and statement of issues on appeal that Mr. Turner filed.

The governing law under 9019 is that a settlement must be an exercise of sound business judgment that falls above the lowest point in the range of reasonableness. That's in a series of US Supreme Court and Second Circuit cases. I think I cited them in my letter. The judge found in his discretion that the trustee had exercised his appropriate discretion to enter into the settlement.

So what's the settlement about? The settlement involves what to do with these warrants. And without going into all of the excruciating detail on them, the warrants are basically for -- UCBI is a regional bank in Georgia, a common stock. And they have a strike price of $4.25. And it's actually a -- the warrants are what are called cashless warrants. So you don't actually have to come up with cash. There's a formula that gets applied that takes -- it essentially grosses it up, takes out the 4-and-a-quarter and gives you the balance of the shares that you would get. So they're referred to as cashless warrants. And these were warrants that were in the FILB estate from a transaction that dated first half of 2010.

In the first half of 2011, again, before the bankruptcy, before the trustee, UCBI engaged in what is called -- I think, again, I refer to it in the letter -- as a

one-to-five reverse split. It reduced the number of shares by a factor of five, by five-fold. And the dispute over those warrants emerged at that time.

Why did it emerge? Because FILB took the position before bankruptcy, during bankruptcy and after the appointment of the trustee, the trustee took the position that under the terms of the warrants themselves, the strike price remained unaffected by the reverse split. The strike price remained $4.25 instead of going up by a factor of five to be $21.25.

Why does it make a difference? Well, it makes a difference if the stock -- well, it made these warrants from being in the money, arguably, to out of the money. At least today the stock is at 17-something. It's sort of a black and white issue here. If we're right, the warrants are very valuable. And if we're wrong, they have very little value; a few million dollars maybe. But there's some intrinsic value that the quants come up with and run through models and will give you an answer.

But as I said, UCBI rejected FILB's effort to exercise the warrants. They rejected two efforts by us, by the trustee, to exercise the warrants. We entered into negotiations with them. We took the position again that the reverse split under the express terms of the agreement, we said, had no impact on the strike price. We point to a New York Court of Appeals case which basically says that sophisticated people are held to the

terms of agreements they write and they mean what they say. We don't read things into them.

UCBI took the position that, while that's all well and good with respect to one provision of the agreement, if you look at a different provision of the agreement, the strike price does go up, because it's set by reference to a formula and a definition that clearly makes reference to reverse splits.

So we rely on one section. They rely on another section. We run the risk -- our analysis is that if we're right, well and good; if we're wrong, it's highly likely that a court hearing this is going to say, well, there's some ambiguity here. The two sections can't be meshed. I'm going to allow parol evidence in to determine what the parties intended, and I'm going to be able to apply equitable considerations to determine whether or not the parties really intended this kind of windfall in the event of a reverse split, because that's how UCBI looks at it; that we were entitled to do a reverse split. You're entitled to maintain your option but you have to adjust it up.

The agreement does provide, by the way, that for a forward split, the more normal kind where, you know, one share becomes three shares or five shares, that the strike price would be adjusted. So fair ground for litigation is our view, is the trustees' view. We negotiate. We don't get anywhere or

we don't get very far. The trustee decides to test the market, to see what the market will pay for these warrants in light of the disclosed litigation risks. We retain a broker. The broker exposes it to 109 different people. We get seven bids from six different bidders. The bidders are either for all cash, pretty easy to understand, or for a combination of cash in a lesser amount and a piece of the litigation. They would be litigating with UCBI. And, if successful, or if there were a settlement, we would get a piece of that.

The trustee negotiated with the six different bidders on the seven different bids. There was an auction process that allowed for negotiation between bids. When he identified the highest of the bidders other than UCBI, other than the company, he went to UCBI and said, you're going to lose. This is going to go to such-and-such investor -- no names were used; this is all confidential -- but a well known hedge fund investor that invests typically in distressed securities with litigation risk attached to them. And UCBI topped all the bids with its $12 million cash bid. That was certainly much higher than the next highest cash bid, which was 8 million, but not a firm bid, and it was about twice the cash for the next highest bid, which was the hybrid bid that included six-and-a-quarter million dollars and about 25 percent of any recovery.

Now, it's logical that UCBI would spend more because they're getting peace -- there's not going to be any more

litigation -- whereas, if we sell it to one the higher bidders, they're just going to be in litigation with one of the hedge funds. So at the end of the day, the trustee says, UCBI will be the winning bid.

This is taken to the bankruptcy court under 9019, under Rule 9019, with notice to everybody. Mr. Turner was the only one objecting to that settlement. Again, the judge conducted a hearing, took evidence, direct evidence from Mr. Davis, from the trustee, in the form of his declaration. Admitted in evidence a whole binder full of exhibits. He --

THE COURT: Was there any cross-examination?

MR. LUSKIN: There was not. There was the opportunity for cross-examination. As the rules provide, as the judge's rules provide, Mr. Davis was there in court, available to be cross-examined. Those were the ground rules, and as is typically the case in bankruptcy court, at least before Judge Gerber, where you put in direct and then go right to cross.

I did not cross-examine Mr. Turner. Most of his evidence consisted of opinion testimony on the value of these warrants and on the handicapping of the litigation. And the judge excluded that evidence, both for failure to comply with Rule 26 and Rule 702, putting in a written report in accordance with the rules, and also made the finding that he rejected any thought of relying on predicting where securities markets were going to go.

And I think, as your Honor can read in the transcript, Judge Gerber said that there is no obligation for a bankruptcy trustee to gamble on the market. He does not have to hold securities. He's entitled to sell them, as long as he's exposed them to the market in a reasonable manner, which he found that Davis had done.

So the settlement was approved. And under the terms of the settlement agreement, we don't close the settlement until there are -- if there's an appeal pending, all of our counterparties negotiated that. And there was negotiation over that, is all I can really say. So as a result of Mr. Turner's filing of his notice of appeal, we haven't closed. The money is not sitting in our account. We do not get the benefit of interest or other earnings during that time. UCBI does, if they funded it. And we can't make use of it. We had the right to use 8 million of the 12 million; 4 million is put aside as a reserve for other potential claims.

Our view, I think, as I stated at the outset, is that this is an appeal that is without merit; that it's a review standard on findings of fact where the judge is clearly erroneous. I think the judge was very careful in nine or ten pages of the transcript to describe the bases for each of his findings, and they are in the record undisputed. I don't think there's a basis to find that Judge Gerber either abused his discretion or was clearly erroneous. And of course what he was

reviewing was the discretion of a Chapter 11 trustee, which is also fairly broadly defined under the TNT Trailer ferry case and the other Grant case. And he did what you'd expect a trustee to do: Expose this asset to the market to determine which of his options he would exercise. So, one, to litigate on his own with UCBI, the other to sell for cash, and the other to sell for cash and a piece of someone else's litigation.

So here we are. The rules -- and I think your Honor is -- the docket entry indicates that Mr. Turner's appellate brief would be due May 6th. We think that under the circumstances the process should be expedited. That's why we suggested just going ahead on what was filed below. I can't think of a new argument that hasn't been made and isn't reflected in the transcript.

Obviously Mr. Turner is entitled to his day in court, but if this is going to take a while, there should be a bond. Frankly, no one expected an appeal of this nature, discretionary decision based on the trustees' discretion with a record devoid of opposition; admissible opposition, let me put this that way.

And while I think both the bankruptcy court and this court, I'm sure, do everything to ensure that Mr. Turner is entitled to his day in court and accorded due process, we are the ones that are being injured by this. The settlement is held up. It hasn't closed. Our view is there is no

likelihood, no possibility of success on the merits of the appeal. The public interest is in favor of trustees entering into negotiated settlements like this. We're the ones being prejudiced, and he's not. So we think at minimum there should be a bond to compensate us for the loss of the use of the money, the interest on the money.

THE COURT: What do you estimate that to be?

MR. LUSKIN: Well, interest on $12 million, you know, I figure that's -- I think 5 percent. I think $600,000 bond is appropriate bond. I think it's actually a low bond on something like this, given appeals. I understand we're dealing with a pro se, which he's probably going to choke on the amount. We object to it. It's deeply subordinated. That's a separate proceeding. He's a defendant in a major fraud case.

MR. TURNER: Alleged.

MR. LUSKIN: And certainly one of the targets of a lengthy trustees' report that lays out all sorts of wrongdoing. Those are other proceedings.

THE COURT: Let me hear from Mr. Turner.

MR. TURNER: Thank you, your Honor.

While Mr. Luskin lays this out ever so simply and easily that I might wonder if I need to call my wife and tell her I won't be coming home tonight, I think it is nowhere near as simple as Mr. Luskin points it out.

I've taken notes here. I want to respond to all of

his comments, but, first, I'm not even sure what that letter was. I'm a pro se attorney, and I'm not sure what that letter is that Mr. Luskin sent. Whether it's a brief, a filing, do I need to respond to it here in time?

THE COURT: No. It's a letter application essentially to have the Court hear the appeal on the briefs below. But you've already stated to me that you have an objection to proceeding in that fashion, and I'm going to give you an opportunity to present me with a brief in connection with your appeal.

But I think my first question would be what new arguments do you intend to raise in a brief that you have not raised and fully discussed in the briefs presented below to the bankruptcy judge?

MR. TURNER: First, I don't believe that there was an opportunity for me to cross-examine Mr. Davis in the March 19th trial. If there was, I clearly missed it.

But more importantly, I've only received one binder of exhibits from Mr. Davis or Mr. Luskin. And that was in regard to what I need to file an appeal by, by May 9th, which is his fraud case, which I say is alleged and incorrect.

THE COURT: That case is not before me.

MR. TURNER: But I have not seen the exhibits.

THE COURT: All right. If I could just interrupt for one second.

You started a moment ago by telling me that you're a pro se attorney. My question is: Are you an attorney?

MR. TURNER: Sorry. I am pro se. I am not an attorney. I did not go to law school.

THE COURT: Fine. Thank you. Go ahead.

MR. TURNER: Although I feel like I'm being schooled lately.

THE COURT: This is an expensive way to get a legal education.

MR. TURNER: Yes. But --

THE COURT: Even as expensive as law school is, this is a more expensive way to get a legal education.

MR. TURNER: This is not my goal.

THE COURT: All right. Go ahead.

MR. TURNER: I do not see any exhibits in regard to the UCBI warrant. I'm not on PACER and may have missed it, but other times I've received -- I've received one binder.

THE COURT: Have you registered on ECF with this Court?

MR. TURNER: No, I have not. Do I need to do so?

THE COURT: I want you to do so today after we conclude today. You can stop down in the clerk's office, because that's the best way for us to communicate with you and, ultimately, for you to communicate with us, although you must submit a courtesy copy, a paper copy, of anything that you

might file on ECF. You must submit it to us so that we're aware of it.

MR. TURNER: Okay. I will do so, your Honor.

THE COURT: Getting back to my question, which was what new arguments would you be reading on the appeal?

MR. TURNER: I would like for some judge to go through the agreement itself. I would be going through the agreement. I would be going through the Reiss case. I would be going through the understanding of why Fletcher insisted upon certain terms in the agreement. These agreements in the United case, there was -- there were three agreements. There was an 83-page securities purchase agreement, a 16-page warrant that went with it and, separately, a 175-page agreement related to an asset purchase, which has been taken by Mr. Davis and by Mr. Luskin to mean something other than it was meant to mean. It was just a way of getting the warrants.

It was a very highly customized document. And every sentence in that document, based on Fletcher's 18 years of experience, or 17-and-a-half prior to that, led to each sentence being specifically put in there or not in there, and there's a rationale behind that. Unfortunately, the court did not hear that -- I don't believe there was the opportunity for cross-examination. And the agreement itself was never specifically reviewed. I would like a judge --

THE COURT: How do you know that? What's the basis

for your assertion that the agreement was never specifically reviewed by the bankruptcy judge?

MR. TURNER: I don't believe the judge made a reference to his review of the document in his filing. Mr. Luskin in the March 19th hearing did state that there were some questions, but there was never to my knowledge any physical evidence put forth. It was just done. And if you could give me a little leeway, there was a following hearing before Judge Gerber the following week, where I'm trying to move from insider status in claim five up to -- class five to a class three claimant. And that -- that is the binder of exhibits -- I misspoke before. That's the binder of exhibits presented to me by either Mr. Davis, or I think the Luskin firm sent me the binder of exhibits. But I never received similar documents, particularly including the agreement.

And the most important thing about this, the United assets, Mr. Luskin went on how there were a few assets they sold and there were some others they may sell. One he referenced in court could be worth 40,000 or $140,000. This asset, the UCBI, the remaining asset, is worth the majority of FILB, and I believe the difference between solvency and insolvency. If it sold for $12 million, with all the fees charged by people -- Mr. Luskin referenced his firm, the Golden firm, Mr. Davis and actually the broker who will be receiving $500,000, is my understanding, when I think anybody in the

business would know that United itself would outbid anybody; especially as Mr. Luskin made the auction sound, they got the opportunity to bid less, or not necessarily less, but continuous bidding.

I spoke to a friend who has a hedge fund. He said, I might bid 13 million for it, but why should I bother if the company could then go ahead and bid 14? What's the point of bothering? On the merits I think the contract is very simple, given that it's a total of 270-some pages. The item referenced with the stock split, it is clear and was probably the most clear of any of our documents, over time we've -- we worked to improve the documents, certainly in favor of Fletcher International, Limited, over time. And the document clearly states that a stock split leads to additional shares at a lower strike price, not fewer shares. It doesn't say not fewer.

It is particularly silent on the issue of a reverse stock split, and that was done with legal advice. It was done to -- I hate the sound of Mr. Luskin's word windfall, but it's a benefit to Fletcher International because oftentimes, when a company does a reverse stock split, the stock often goes back down to the price, even if it was one for two, in which case, effectively, the company loses half of its market cap. And one for five, it would lose 80 percent of its market cap. This time, thank God, it didn't go down. And I think that is something that the shareholders of Fletcher International,

through various feeder funds, should benefit from.

The case law -- Mr. Luskin referenced it but didn't cite its name -- it's the Reiss case, Reiss vs. Financial Performance. I am told it's the only case on point. I'm not a lawyer, and I can't check this stuff out, but I've been told that it's the only case on point. And it favors the Fletcher point of view.

And while Mr. Luskin and Mr. Davis have questioned some of our valuations, very simplistically to me the idea of reasonableness comes in in this sense: This warrant still has several years to go, and it's -- but it's deeply in the money. There's a couple million dollars of time value. Let's not discuss time value here. It's simply a warrant for -- $30 million divided by 4-and-a-quarter is a shade over 7 million shares. Mr. Luskin said the stock price is over 17. That's where I noticed this morning, let's say it's 17-and-a-quarter, 17-and-a-quarter minus 4-and-a-quarter strike price. It's $13 times a little over 7 million shares. It's worth 91, 92 million dollars.

At the time I appeared before Judge Gerber, that morning the stock was at 19.40. And I have a reason for that, but that is a tangent that I shouldn't discuss now, but I will, if you serve a request. But it's either -- at the time it was $106 million in the money and 12 versus 106, when case law supports that 106 does not seem to be the lowest level of

reasonableness, especially if you then start subtracting out fees due to various firms for the ultimate -- for the creditors and for the shareholders, it's not even 12 versus 106. It could be maybe 8 versus 102, or something like that. And with case law, honestly, I think it should -- lowest level of reasonableness should be half, maybe a little less than half. But 12 versus 106 or 8 versus 102, without a thorough review of the documents by anyone, by any judge, just doesn't seem within the realm of TMT Trailer, especially where it calls for judicial review, and especially on big numbers. And this is the difference between solvency and insolvency.

If I may go through Mr. Luskin's points.

THE COURT: Well, I mean, you can save much of that for the brief that you're going to submit in connection with the appeal. I mean, at the end of the day, what about the bankruptcy judge's determination and the trustees' determination that the avoidance of the uncertainty of continued litigation in the case was a premium deserving of recognition?

MR. TURNER: I think it's certainly worthy of discussion. I'm just not sure that the actual facts have been reviewed, and that they should be reviewed by a judge.

Mr. Luskin spoke in court. I responded for a small fraction of the time Mr. Luskin spoke. And the judge made his decision. There was no opportunity for me to cross Mr. Davis.

There was -- I don't believe it was offered at all. And I'm not sure that -- based -- Mr. Luskin gives a compelling argument every time he speaks. I mean, he's been an attorney for many years. He's better at this than I am. But I think the facts should actually -- and the actual underlying documents should be reviewed explicitly by a court.

THE COURT: What about Mr. Luskin's argument that your claim on this appeal is 30-some-odd-thousand dollars, and that it's delaying a settlement of 12 million?

MR. TURNER: Well, my claim may only be $30,000. It's significant to me. But it's also -- I think other shareholders can benefit from a fuller hearing of the facts, or the first hearing of the facts.

Mr. Luskin also talked about the trustees' report and the disclosure statement. And while it sounds like all I do is object, I only filed a handful of objections. But Judge Gerber insisted that when the trustee reporting the disclosure statement was sent to the actual creditors -- by the way, I think the vote was three-nothing in favor of the plan versus maybe 80 creditors. Judge Gerber insisted that Mr. Luskin write in bold print on the second or third page that so far this is only the trustees' opinions. They have not been found true yet, if they ever will be, and they've never really been hashed out in court; certainly no back and forth, no cross-examination.

And this United warrant, in addition to getting potentially $100 million, 90 based on where the stock is now, for the creditors, for the claimants, can also impact the distribution of such claims. The joint official liquidators that Mr. Luskin referred to in the Cayman Islands, they were given other assets in United, which our outside valuation analyst valued at $136 million. They sold it for two-and-a-half million. It's a terrible, terrible, terrible sin. And leads people mistakenly to think that we're bad guys, and that's why we're being sued.

But if I were to borrow a gazillion dollars from you -- it's not a bribe or anything, but pay you off with a Picasso that you sell for $10, doesn't mean that I didn't pay off my debt. It just means the sale of the Picasso for $10 was wrong. And Massachusetts MBTA -- which is actually one of the litigants that I have to worry about in this other case, and we'll be meeting with a lawyer for them -- they -- I think if the Court hears the case and realized that the value of this is worth 100 million, and then I realize we have to go to another court to actually have FILB vs. United, that will explain that the value given to the proceeding investors was also worth what we said it was worth and, therefore, on the Massachusetts pension fund, which now would be settling for maybe $2 million, could get as much as $50 million, if this is all heard properly. And that's why I want to talk to them.

THE COURT: All right. I want to do two things: I'm going to fix a schedule for the submission of briefs in the case. I want to get before me the record that the two of you agree should be considered in connection with this appeal, the exhibits --

MR. LUSKIN: I believe that's been agreed already, your Honor.

THE COURT: All right. But someone can --

MR. LUSKIN: We will get them to you.

THE COURT: -- put that bundle of materials together for us. And I think that, given the nature of this dispute, that some bond is appropriate here; not the bond that Mr. Luskin is suggesting, but is there any reason that you can't post a $20,000 bond in connection with this appeal?

MR. TURNER: I don't have it. I would like that not to become part of the public record. Because of other issues, I have not been able to draw a salary from Fletcher International Partners, which is not the subject here, but it's making my life difficult and also is inhibiting me here from posting a bond.

THE COURT: What's going on? Is there discovery going on in the other case?

MR. LUSKIN: The other cases were filed two days after the confirmation. So they were -- they have just begun. Discovery has already been made extensively in the bankruptcy.

THE COURT: I'm not going to give you 30 days, then, to file your appeal.

MR. TURNER: Okay.

THE COURT: I'm going to tee this up promptly and resolve it.

Are you capable of posting a $5,000 bond?

MR. TURNER: Not today.

THE COURT: When you say "not today" --

MR. TURNER: I'm hoping to get a few bucks that I can pay my rent with. Not today, not -- not until the other issue is resolved. I'm not sure how much interest -- interest rates are near zero percent these days.

THE COURT: I understand that. But do you want to be heard further?

MR. LUSKIN: Just very -- not really, your Honor.

THE COURT: Good. Okay.

MR. LUSKIN: I don't need to be heard. You've said it, your Honor.

MR. TURNER: I'll work on an expedited schedule.

MR. LUSKIN: I was just going to point out there is this May 6th date that exists, and we're prepared to file a brief a week later. But I would prefer if there's going to be no bond -- which I object to, but obviously that's your decision -- I don't see any reason why it couldn't be sooner than this, your Honor. You asked Mr. Turner what's new, what

are the new arguments. Every single thing he said, he said below. It's in the transcript.

I would submit today.

MR. TURNER: I disagree with Mr. Luskin.

THE COURT: Can you file your brief on this appeal by May 6th?

MR. TURNER: I will make sure that I get it done.

THE COURT: All right. You'll file your opposition brief by when, by May 13?

MR. LUSKIN: Yes.

THE COURT: And I'll give you the opportunity to file a reply brief by May 20. And I will put this down for oral argument on May 22 at 3:30. I would like the record to be submitted to me by next Tuesday, by May 6th.

MR. LUSKIN: You'll have it, your Honor.

THE COURT: And I'll look to you, Mr. Luskin, to coordinate with Mr. Turner so --

MR. LUSKIN: We're going to take his entire designation, and we didn't add or object to anything in that.

THE COURT: So I'm going to enter that scheduling order with respect to the case. I must tell you that under virtually any other circumstance, I would be imposing a bond in this case.

MR. TURNER: Thank you, your Honor.

THE COURT: But --

MR. LUSKIN: I guess there's nothing I can be heard on on that, your Honor. It is just unfair to the trustee to put off this closing. Now it's going to be at least another month.

MR. TURNER: In all fairness, Mr. Luskin's agreement called for an appeal, which didn't call for a bond.

THE COURT: Look, if I can decide this from the bench, I will. But the case is not going to linger. As soon as I get a letter, I am on it.

MR. LUSKIN: Absolutely, your Honor.

THE COURT: All right?

MR. LUSKIN: Yes.

THE COURT: Thank you.

MR. LUSKIN: Thank you, your Honor.

MR. TURNER: Thank you, your Honor.

THE COURT: Don't forget --

MR. TURNER: Where?

THE COURT: Go to the first floor.

Where's the pro se office?

THE DEPUTY CLERK: Second floor.

THE COURT: Go to the second floor. Check with pro se first, and then -- make sure you get an ECF log-on so that you'll get -- because I'm going to enter a scheduling order today setting forth these dates, all right?

MR. TURNER: Okay.

THE COURT: Thank you. (Adjourned)